

Task Force on the Future for Growth and Development

Draft Recommendations - For Internal Discussion Only

(Revised November 9, 2008)

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1. Modernize the State’s Planning Visions to Achieve Smart and Sustainable Growth

A. Update the “Eight Visions” to Reflect a More Modern Approach to Growth and Development

The “Eight Visions” were first adopted by Maryland in the 1992 Economic Growth, Resource Protection, and Planning Act. They were initially developed by the Year 2020 Panel of Experts, an inter-disciplinary group convened by the Chesapeake Bay Commission in 1987 to evaluate the impact of future growth in the Chesapeake Bay Region. The 2020 Panel issued its report in December 1988 and described six visions needed to strike a balance between growth and environmental needs. These were ultimately codified in 1992, with two additional visions for a total of eight.

State Finance and Procurement Article §5-7A-01 provides that the Eight Visions are Maryland’s “Economic Growth, Resources Protection and Planning Policy” (*i.e.*, the State’s growth policy). Section 5-7A-02 limits state funding for various capital projects unless the projects are consistent with this growth policy or “the local plan of the jurisdiction in which the project is located.”

The Visions are also incorporated in Article 66B (Land Use) §1.01 and apply to all counties and municipalities in Maryland. Local jurisdictions are required to implement the Visions through the plan. Further, §4.09 requires that jurisdictions “shall ensure that the implementation of the provisions of the plan that comply with §§1.01 and 3.05(a) (4)(vi) and (viii) [the land use and sensitive areas elements] are achieved through the adoption of applicable zoning ordinances...subdivision ordinances...and other land use ordinances...that are consistent with the plan.”

The Visions are a now-familiar touchstone of Maryland land use law and policy, but they have been in place without amendment for 16 years. They have never been modernized to reflect and keep pace with current growth and development patterns and trends, or Maryland’s commitment to Smart Growth. It quickly became clear to the Task Force that the Visions should be updated and, through its Eight Visions Workgroup, the Task Force drafted, discussed and now recommends a new set of Visions to guide growth and development in Maryland to help achieve Smart and Sustainable Growth.

Following are the existing and the proposed revised Visions:

1 **The Existing Eight Visions**
2 **(pursuant to Economic Growth, Resource Protection, and Planning Act of 1992)**
3

- 4 1. Development is concentrated in suitable areas;
 - 5 2. Sensitive Areas are protected;
 - 6 3. In rural areas, growth is directed to existing population centers and resource areas are
7 protected;
 - 8 4. Stewardship of the Chesapeake Bay and the land is a universal ethic;
 - 9 5. Conservation of resources, including a reduction in resource consumption, is
10 practiced;
 - 11 6. To assure the achievement of [the] above, economic growth is encouraged and
12 regulatory mechanisms are streamlined;
 - 13 7. Adequate public facilities and infrastructure under the control of the county or
14 municipal corporation are available or planned in areas where growth is to occur; and
 - 15 8. Funding mechanisms are addressed to achieve these visions.
- 16
17

18 **Proposed Revised Visions**

- 19 1. **Quality of Life and Sustainability:** A high quality of life is achieved through universal
20 stewardship of the land, water and air resulting in sustainable communities and protection
21 of the environment.
- 22 2. **Public Participation:** Citizens are active partners in the planning and implementation of
23 community initiatives and are sensitive to their responsibilities in achieving community
24 goals.
- 25 3. **Growth Areas:** Growth is concentrated in existing population and business centers,
26 growth areas adjacent to these centers, or strategically selected new centers.
- 27 4. **Community Design:** Compact, mixed-use, walkable design consistent with existing
28 community character and located near available or planned transit options is encouraged
29 to ensure efficient use of land and transportation resources and preservation and
30 enhancement of natural systems, open spaces, recreational areas, and historical, cultural,
31 and archeological resources.
- 32 5. **Infrastructure:** Growth areas have the water resources and infrastructure to
33 accommodate population and business expansion in an orderly, efficient, and
34 environmentally sustainable manner.
- 35 6. **Transportation:** A well-maintained, multimodal transportation system facilitates the
36 safe, convenient, affordable and efficient movement of people, goods and services within
37 and between population and business centers.
- 38 7. **Housing:** A range of housing densities, types, and sizes provide residential options for
39 citizens of all ages and incomes.
- 40 8. **Economic Development:** Economic development and natural resource-based businesses
41 that promote employment opportunities for all income levels within the capacity of the
42 State's natural resources, public services, and public facilities is encouraged.

9. **Environmental Protection:** Land and water resources, including the Chesapeake and coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems and living resources.
10. **Resource Conservation:** Waterways, forests, agricultural areas, open space, natural systems and scenic areas are conserved.
11. **Stewardship:** Government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection.
12. **Implementation:** Strategies, policies, programs and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, State and interstate levels to achieve these visions.

The Visions are incorporated in state statutes, and therefore updating and amending the Visions will require legislation. Once the Visions are updated, local governments would be required to comply with them as part of their comprehensive plan update cycle, including any ensuing revisions of local land use ordinances. Of equal importance, the State Development Plan now being prepared by the State would need to incorporate the revised Visions, and State agencies would begin to evaluate programs and policies for compliance with the updated language of the proposed Visions.

The Task Force believes the revised Visions are more consistent with, and will further, Maryland's ongoing aspiration to develop and implement sound growth and development policy -- particularly Smart and Sustainable Growth. It recommends the enactment of legislation adopting these new Visions the 2009 General Assembly session.

2. Strengthen Comprehensive Plans

A. The General Assembly should respond to the recent Terrapin Run case with corrective legislation

The opinions of the Court of Appeals in *Trail, et al. v. Terrapin Run, LLC, et al.*, No. 44, September Term, 2007 (March 11, 2008) contains a wide-ranging discussion of the history of planning in Maryland and the role of a local jurisdiction's comprehensive plan. After analysis by its Terrapin Run Workgroup, the Task Force concluded that the overall effect of the opinion is to weaken the link between the comprehensive plan and its implementing ordinances such as zoning. See the Report of the Terrapin Run Workgroup at **Appendix []** for a summary and analysis of the court's opinion. With increasing growth pressures in Maryland, planning issues have increased in complexity, and local governments and citizens are investing more of their time and resources in comprehensive plans. The opinion from Terrapin Run would devalue that significant government and citizen investment.

At a minimum, the Terrapin Run decision did not consider Section 4.09 of Article 66B which requires that “a local jurisdiction shall ensure that the implementation of the provisions of the plan...are achieved through the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations that are consistent with the plan.” The comprehensive plan is also required to be reviewed at least once every six years and if necessary revise or amend the plan. In addition, at intervals that correspond to the plan revisions, the local jurisdiction is to ensure that the plan is implemented through land use ordinances and regulations that are consistent with the plan.

The advantages of a comprehensive plan are apparent. First, the comprehensive plan is prepared by professionals along with the planning commission or board, who are able to objectively evaluate population projections, economic factors, resource limitations, and environmental protection. Second, the process involves numerous stakeholders and is open to the public. It represents the application of State-established planning criteria to the particular circumstances of the local jurisdiction by the local jurisdiction. It represents the broad vision of the people of the jurisdiction for their future. Third, although the plan can be revised more frequently, its 6-year lifetime virtually assures that it will survive through changes of administration and the membership of the local legislative body. This longer-term planning horizon reduces uncertainty and facilitates the coordination of development with the necessary infrastructure.

Maryland is best served if all land use decisions conform to the overall comprehensive plan in both the location and timing of development. Development of property consistent with the locally developed and adopted comprehensive plan is mandated by statute, it is achievable, and it is good policy. Accordingly, The Task Force believes that the General Assembly should clarify this, by passage of appropriate legislation.

The Task Force recommends amending Article 66B to remove any ambiguity created by *Terrapin Run* and clarify that a local jurisdiction must implement and follow the comprehensive plan it adopts. Any such amendment should be tailored narrowly, to avoid unintended consequences within Article 66B or other areas of the State’s planning laws.

B. Provide earlier opportunities for State agency comment on local comprehensive plans

For decades, MDP has led a formal process to review and comment upon local governments’ comprehensive plans. Currently, that comment period is statutorily required 60 days before the local plan is adopted. The process, and the ultimate purposes of such review, would be enhanced by the addition of an informal meeting and preliminary comment step earlier in the comprehensive plan development process. Such a meeting would provide an opportunity for more collaboration and for better incorporation of comments into the plan.

The Task Force recommends that MDP, in coordination with each local government, adopt a policy for meeting early in the comprehensive plan development process to coordinate

1 and collaborate about the jurisdiction's comprehensive plan, and to facilitate the
2 incorporation of State comments into the plan before its adoption.

3 **C. Increase technical and financial support for local comprehensive planning, particularly in**
4 **smaller communities with limited capacity**

5 Many local governments need technical and/or financial assistance to develop and implement
6 their comprehensive plans. MDP and other State agencies provide various forms of technical
7 assistance to all local governments. This includes information on best practices, data and
8 analysis, interpretation of policies and laws, etc. As planning issues in Maryland become more
9 complex and as new requirements for planning add required chapters or elements to
10 comprehensive plans, the need for technical assistance has increased. At the same time, the
11 State's ability to provide additional technical assistance is limited, with key financial assistance
12 available mostly to smaller jurisdictions. One effort, the Sustainable Communities Initiative,
13 was designed to address these issues to help lower income communities afford consulting
14 support for comprehensive planning, but this program alone is not enough.

15 **The Task Force recommends that the State identify additional resources for providing**
16 **technical and/or financial assistance to local governments for development and**
17 **implementation of their comprehensive plans. Existing non-profit and university resources**
18 **should be examined as potentially efficient ways to provide such assistance.**

19
20 **3. Collect Good Information for Good Planning**

21 Advancement and achievement of public policy objectives like Smart and Sustainable Growth
22 are helped by the application and analysis of broadly accepted and reliable information about
23 goals, indicators, trends, forecasts and the like (*i.e.*, metrics). Despite its critical importance,
24 little quantitative information exists to measure how Maryland is growing at the state, regional,
25 and at times local levels. While some measures or indicators exist statewide, additional ones are
26 needed.

27 Measures or indicators should address at least the following:

- 28 • Amount and share of growth in and out of PFAs
- 29 • Density mix of growth in and out of PFAs
- 30 • Measures of housing choice, including affordability
- 31 • Measures of growth's impact on the environment (land, water, air and habitat)
- 32 • Indicators informing the fiscal cost of growth

- Jobs/housing balance
- Measures or indicators to inform the transportation impact of growth
- Indicators on growth's impact on business (job creation, fiscal impact, agri-business, tourism, forestry etc.)
- Indicators on growth's impacts to cultural and historic resources
- Measures or indicators on reporting the creation of new lots and building permits in and out of the PFA

The Task Force recommends that MDP work with local governments and other stakeholders, including the Task Force itself, to develop a set of Smart and Sustainable Growth indicators that can be used at the local, regional and state levels. Drafts of these indicators should be shared with the Task Force by July 1, 2009 for review and comment.

4. Sharpen the Focus of Priority Funding Areas (PFAs)

A. Target State resources within the existing Priority Funding Areas to move Smart Growth forward and to improve the State's return on investment

The fundamental purpose of Priority Funding Areas (PFAs), established by law in 1997, is to focus State spending to most efficiently and effectively use existing infrastructure, preserve existing neighborhoods, and preserve Maryland's fields, farms, and open spaces. By statute, PFAs include:

- Municipal boundaries as of January 1997
- Designated Neighborhood Program Areas
- Enterprise Zones
- Heritage Areas that are also county growth areas
- Inside the Beltways
- Local Governments MAY certify additional areas consistent with criteria (growth areas)

Certain criteria must be met in order for an area to be a certified PFA -- existing or planned water and sewer service, average permitted residential density of 3.5 units per acre, growth plan consistent with projections, and a PFA size based on an assessment of land needed for 20 years' growth.

Like the "Eight Visions" passed in 1992, the 1997 PFA law has never been substantially changed or updated in view of evolving growth and development issues. Yet, PFAs are in many ways

1 the lynchpin of the State's growth policy because of their direct effect on where the State can and
2 does spend its money in support of growth.

3 A PFA Workgroup of the Task Force met to evaluate the efficacy of the PFAs, and it quickly
4 became clear that this multifaceted and complex issue could not be addressed effectively within
5 the limited time prior to delivery of this mandated report. **[DESCRIBE HERE FOR THE**
6 **READER THE ISSUES CONSIDERED AND THE DIVERGENCE OF INTERESTS WITH**
7 **RESPECT TO PFAs, AS IDENTIFIED BY THE WORKGROUP]**. However, because the PFAs
8 are so central to the State's growth and development policy, their intent, performance and
9 efficacy must be fully evaluated, understood and improved, to the extent necessary and possible.
10 **Therefore, the Task Force will make study of PFAs a Focus Area of its ongoing work, with**
11 **the goal and intent of providing by November 1, 2009 a critical analysis of the effectiveness**
12 **of PFAs along with recommendations for possible changes.**

14 **5. Emphasize Transit-Oriented Development (TOD)**

15 Maryland has a unique opportunity to leverage existing transit investment and promote more
16 efficient land use through encouraging compact, mixed use development near its transit stations.
17 This approach, known as "Transit-Oriented Development" or "TOD," can be pursued as a
18 mechanism to promote transportation choice for many Maryland residents and provide a major
19 focus for the accommodation of future growth in the state. TOD sites are often considered the
20 best Smart Growth sites.

21 A TOD approach leverages the locational advantages of station areas by improving non-
22 motorized access and clustering a mix of uses to reduce the number of trips that must be taken by
23 automobile. Supported by transportation-demand management (TDM) strategies that change
24 travel behavior (how, when and where people travel), TOD can help increase the overall
25 efficiency of the state's transportation system, while providing an essential framework for more
26 sustainable growth in the state. The approach can result in substantial quality of life
27 improvements for Maryland households by cutting transportation costs associated with the
28 ownership and operation of vehicles, while promoting the development of more livable
29 communities for current and future state residents.

30 Although Maryland's transit network provides a relatively high quality service, current land use
31 patterns do not provide for its most efficient use. All too often, patrons have little choice but to
32 access the transit network by car, and stations are surrounded by inefficient surface parking lots
33 that render station areas unattractive and unsafe for pedestrians. Many of the State's existing
34 transit station areas hold tremendous opportunity for infill and revitalization that could be a
35 major focus for the state's future growth. Indeed, if our existing station areas were developed
36 (within half mile radius) to maximize their TOD potential, they could theoretically accommodate
37 all of the state's projected growth for the next 20 years. Although realistically station areas must

1 be planned to accommodate appropriate levels of growth for their area, the potential cost-
2 savings, system efficiencies and quality of life improvements of TOD suggest that this approach
3 could play a major role in accommodating the state's future growth.

4 Despite large transit investments, and our status as the fifth most densely populated state in the
5 nation, Maryland continues to have a much higher share of travel by automobile than it does for
6 public transit. The U.S. Census Bureau found that on average Marylanders have the 2nd worst
7 commutes in the nation. Recent spikes in gasoline prices have prompted many Marylanders to
8 consider public transit seriously for the first time. In addition, there is an increasing awareness
9 across Maryland of the environmental consequences of auto travel. This includes traffic
10 congestion that wastes valuable time and energy and produce pollution that harms our health and
11 contributes to global warming. However, many of the State's would be transit-riders quickly face
12 the limitations of our current transit system, and their frustration returns them to their cars.

13
14 The relationship between transportation and land use presents a special Smart Growth challenge.
15 Smart Growth development patterns are important for efficient transportation; yet, such
16 development patterns are difficult to achieve without good transportation options. Similarly,
17 transportation services, especially transit service, are compromised by dispersed development
18 patterns that make efficient transit services difficult to deliver. Therefore, good transportation
19 service and good land use policy depend on each other to succeed.

20
21 The Task Force sees great promise in TOD and in Maryland's public transit system to make
22 increasingly more vital contributions toward feasible alternatives to auto travel, thereby relieving
23 traffic congestion, reducing our dependence on oil, curbing pollution, stimulating the economy,
24 and helping to sustain healthy, vibrant communities.

25
26 **Accordingly, the Task Force supports TOD as a key State policy initiative and makes the**
27 **following specific recommendations in support of TOD:**

- 28
29
- 30 • **State agencies and local governments should work cooperatively to promote**
31 **appropriate levels of development at existing transit station areas. Stations**
32 **should be a focus of state-local collaboration to ensure that they can**
33 **accommodate a major proportion of Maryland's future growth and that**
34 **associated land use changes support investments in the improvement and**
35 **expansion of the transit network.**
 - 36 • **Study the feasibility and relationship of system and site-level investments**
37 **required to support focused growth around MD's existing transit network. The**
38 **opportunities and barriers for such investments should be identified and**
39 **investigated. This activity must involve active participation from both local and**
40 **state agencies and stakeholders.**

- The State should encourage compact development and mixed land uses in PFAs around transit areas. Local governments should respond by providing policy, programmatic, and regulatory frameworks that support development patterns that are walkable and transit supportive, and within a reasonable walking distance (typically 1/2 mile) of existing transit service. These measures can in turn promote housing, employment and transportation alternatives that are more efficient, affordable and cost-effective.
- Link eligibility of State TOD incentives to local government adoption of TOD-friendly planning, zoning, TOD supportive infrastructure policies and financing, TOD supportive housing programs, design and/or other measures.
- Support local government adoption of TOD-friendly planning, zoning, and infrastructure investment. Agencies can assist through the development of TOD-supportive housing programs, model zoning codes and assisting in the local development of community-appropriate, customized solutions that promote active, income-diverse pedestrian- and transit-friendly communities.
- Create a capitalized TOD Revolving Loan Fund for gap financing for TODs. This program could be administered similarly to the DHCD program for Neighborhood Business Development Programs.
- Define & implement a program for financing bicycle & pedestrian facilities in all TODs, and for financing structured parking for TODs where necessary to encourage redevelopment of surface lots. The Maryland Transportation Authority could act as the financing agency.
- Provide the State's full faith and credit to TOD-zone TIF districts.
- Continue to communicate that TOD (where available) is one of the best ways to accommodate future growth and to revitalize our existing communities, and how that contrasts with low density sprawl development on rural land as a poor way for Maryland to grow.

6. Preserve Land for Resource Production and Protection

Maryland is the fifth most densely populated state in the country, but has also made protection of rural lands a priority both to preserve natural resources and the industries which depend upon them. Directing development to growth areas and away from rural areas is critical to the

1 protection of habitat, streams, rivers and the Bays, and equally important for the continued
2 viability of Maryland's agri-business, seafood and tourism industries.

3 Maryland has the sixth most expensive farmland in the country. Even in difficult economic
4 times, the average price for farmland in Maryland, according to the U.S. Department of
5 Agriculture, is \$9,100 an acre in 2008. Because a significant portion of our farmland is within
6 commuting distance of urban and suburban job centers, development pressure on this land is
7 intense. With an aging farmer population and increasing real estate prices, remaining farmland
8 in Maryland and the agriculture industry is threatened.

9 To help address this problem, the General Assembly passed a joint resolution in 2002 setting a
10 goal to preserve 1,030,000 acres in Maryland. To date, Maryland Agricultural Land Preservation
11 Foundation (MALPF), Rural Legacy and local Purchase of Development Rights and Transfer of
12 Development Rights programs have placed under protective easement about half that amount.

13 Additionally, in 2006 the General Assembly passed HB2, which requires counties to have a
14 Priority Preservation Plan (PPA). A PPA includes the geographic delineation of areas that are
15 targeted for resource conservation preservation.

16 For Maryland to meet the challenge of growing while preserving the pastoral heritage of its rural
17 areas, the State should actively support programs to assist farm, forestry, seafood and recreation-
18 based businesses to achieve profitability and sustainability.

19 The following are recommendations for addressing this challenge.

20 **A. Explore Expansion of Transfer of Development Rights (TDR) Programs**

21 Ownership of a parcel of land confers upon its owner a number of rights, including the right to
22 use the property for one or more purposes, the right to cover a certain percentage of the site with
23 buildings, and the right to develop a certain number of dwelling units. A TDR program allows
24 these development rights to be acquired and transferred to another property, thereby protecting
25 the "sending" property from development and allowing more development on the "receiving"
26 property, typically in an area where growth is desirable and being directed.

27 TDR is not permissible by right, but State authorization permits TDR to occur within a program
28 enacted voluntarily by the local government. Few local jurisdictions have done so because of the
29 complexity of TDR programs. Only two jurisdictions that have TDR programs, Montgomery
30 and Calvert Counties, have been able to create successful programs which have preserved land
31 while creating viable markets for the transferred densities.

32 TDR programs are not a substitute for strong rural zoning that independently protects such lands.
33 However, despite the difficulties associated with creating viable TDR programs, particularly
34 those that transfer rights across jurisdictional boundaries, the Task Force believes that further

study of TDR viability is warranted. Though difficult to design and implement, a statewide or regionally based TDR program holds promise because such programs yield broader “receiving” areas for the transferred density.

The Task Force recommends that an inter-agency and inter-governmental workgroup, including State and local stakeholders, be convened to explore the viability of TDR programs at all levels. The workgroup should report back to the Task Force with an interim report by July 1, 2009, and a final report by November 1, 2009.

B. Target Land Preservation Programs

Financial resources for land preservation will always be limited, even more so as the State copes with the current fiscal climate. Therefore, resources should be targeted where possible to maximize return on the State’s investment.

In 2006 the General Assembly passed HB2, which requires counties to have a Priority Preservation Plan focused on designated Priority Preservation Areas (PPAs). A PPA includes the geographic delineation of areas that are targeted for resource conservation preservation. A priority preservation area analysis assesses the status, vulnerability, threat and potential return on conservation investment in potential focus areas to do the following:

- Develop short- and long-term geographic and resource-specific objectives for land preservation and conservation in potential focus areas, based on the extent and configuration of land areas needed to sustain resources of interest;
- Evaluate the degree to which local land use management tools support achievement of those objectives in each area;
- Communicate conservation objectives and the strengths and weaknesses identified for supporting programs in an area; and
- Use the priority preservation area assessment and consultations with local government to select focus areas for the longer term, where resource-specific objectives are most likely to be achievable in those time frames.

Such targeting provides a good opportunity to enhance resource conservation efforts by applying the priority preservation area concept to target not just individual parcels but large geographic areas rich in high quality natural resources that also benefit from the stabilizing effects of local zoning and land use management authority.

The Task Force recommends that the State maximize available resources for important preservation programs including the Critical Farms Program, the Next Generation Farmland Program, the Installment Purchase Agreement Program, the Maryland Agricultural Land Preservation Program, the Rural Legacy Program, and Project Open Space. In addition, the State should concentrate its expenditures for land preservation

1 **programs where the substantial investment is protected by local land use management**
2 **authority such as zoning, subdivision regulations, and Priority Preservation Areas.**

3 **C. Support agricultural land preservation initiatives that protect resource-based industries**

4 In order to effectively conserve Maryland's resources lands, strong rural zoning is necessary to
5 protect those resource lands from land fragmentation by keeping property in rural areas intact.
6 One benefit of strong rural zoning can be higher property values. When rural lands are
7 fragmented through subdivision the result is frequently the erosion of property values in
8 comparison to what a property would be worth had it been left intact. Intact land provides for
9 the continuation or beginning of resource-based industries.

10 The Maryland Agricultural Land Preservation Program (MALPF), in existence since 1977, is one
11 of the most successful programs of its kind in the country. The goals of the program are to
12 preserve land as a source for food and fiber for the citizens of Maryland; control the subdivision
13 and development of farmland; curb the spread of urban blight and deterioration; and protect farm
14 and forest land as open space. As of September 2008, MALPF has purchased perpetual
15 preservation easements on nearly 2,000 farms, totaling 272,158 acres. MALPF has a long-term
16 strategic plan that recommends several preservation initiatives.

17 The Maryland Agricultural and Resource Based Industry Development Corporation
18 (MARBIDCO) was funded in the Ag Stewardship Act of 2006. Its primary goal is to provide the
19 business assistance and financial help (i.e. loans and grants) that Ag and Resource-Based
20 Industries need to become profitable and sustainable. This quasi-government agency currently
21 offers four business-assistance loan programs and three grant programs as well as two land
22 preservation programs. Although currently funded with state dollars, its mandate is to be self-
23 sufficient by 2020. Adequate funding is required for MARBIDCO to reach its goal of self
24 sufficiency and to provide on-going assistance to resource-based industries in Maryland.

25 [INSERT RECOMMENDATION HERE]

26 **D. Protect funding for Maryland's land protection programs by ensuring that their sources**
27 **are not diverted to other uses**

28 Maryland's critical land protection programs described above depend substantially on revenues
29 from the State's real estate transfer tax and agricultural transfer tax. In a declining real estate
30 market, revenues from these taxes are reduced, threatening funding for these programs. In
31 addition, although the current administration has not done so, prior administrations have diverted
32 these funds to the general fund to be used for other purposes.

33 **The Task Force strongly encourages that funds for land protection and preservation be**
34 **maximized and, at the very least, not diverted to other uses.**

7. Assess and Address Critical Infrastructure Needs

To achieve Smart and Sustainable Growth, we must build and maintain infrastructure in existing communities. The basics -- water, sewer, roads, and schools -- are absolute prerequisites for denser and more walkable communities. Libraries, parks, cultural/recreational and other similar facilities enrich our communities and are critical amenities which attract people to live where they do. Local, state and federal funds can meet only a small fraction of this demand.

An Infrastructure Assessment Workgroup of the Task Force studied a number of critical infrastructure issues and provided the Task Force with a report. See the Workgroup's report at [Appendix \[\]](#). Based on the Workgroup's report and further discussion, including the efforts of an Adequate Public Facilities Workgroup described further below, the Task Force makes the following recommendations to focus attention and resources on the State's infrastructure needs.

A. Require that the Maryland Department of Planning update the 2004 Infrastructure Survey and that local governments cooperate with the survey

The State last conducted a comprehensive survey of its infrastructure in 2004. This survey should be conducted at least every ten years to provide policymakers with a current understanding of the condition of Maryland's infrastructure. **The Task Force recommends that MDP should, in conjunction with other State agencies, local governments, and the Task Force, develop and implement changes to the 2004 survey format to maximize its usefulness. Local governments should be encouraged to participate fully in completing the survey, whose usefulness will be compromised if data is incomplete.**

B. Complete a ten-to-twenty year historical survey of State and local infrastructure investment for schools; land preservation including agricultural and open space protection; and transportation improvements

The Task Force believes that state and local policymakers would benefit from a historical perspective on infrastructure funding in Maryland, both to identify past trends and help plan for future needs. Such a study should focus on spending, but also on the extent to which existing infrastructure is being used efficiently and to its capacity.

The Task Force recommends that the Department of Legislative Services, the entity with access to the broadest spending and budget data, be asked to complete a historical infrastructure study by November 1, 2009, engaging the assistance and resources of other agencies and entities with access to relevant data and resources.

C. Expand the Department of Housing and Community Development's Local Government Infrastructure Finance Program

1 The State's Local Government Infrastructure Financing Program, run by the Department of
2 Housing and Community Development, issues bonds, on behalf of counties, municipalities
3 and/or their agencies, to finance projects that serve the community at large. State issuance of
4 such bonds helps smaller governments to achieve greater efficiency and lower cost than
5 individual bond issuances.

6 Eligible projects can include, but are not limited to, streetscape improvements, transportation
7 enhancements and water system and waste water treatment facilities. Bonds issued through the
8 program are triple-A rated by virtue of municipal bond insurance and participants enjoy fixed,
9 tax-exempt interest rates. Actual interest rates depend on market conditions at the time of sale,
10 but depending on the size of the issue, economies of scale can further reduce issuance costs.
11 Local governments receive loans from the bond proceeds and must repay the debt incurred
12 through the bond financing. They also pay their pro-rata share of the costs of issuance of the
13 pooled bonds. A loan is a general obligation of the participating jurisdiction, secured by the full
14 faith, credit and taxing power of the local government.

15 Requests from local governments for assistance with municipal bond financing have nearly
16 tripled from \$33 million in 2007 to more than \$100 million for 2008. Accordingly, DHCD is
17 currently reviewing options for enhancing the reach of the Program as a means of making more
18 funds available to meet infrastructure needs, although the cost of bond insurance in the current
19 financial crisis is affecting all public finance. The Department is looking at other models for
20 infrastructure investment, including the Virginia Resource Authority, which provides a similar
21 service to the DHCD's Development's Local Government Infrastructure Finance Program but, at
22 a larger scale.

23 **The Task Force supports DHCD's efforts to expand the Local Government Infrastructure**
24 **Financing Program and requests that DHCD report to the Task Force, on an ongoing basis**
25 **but no later than April 1, 2009, on the success of its efforts.**

26 ***D. Maximize Local Government Authority to Fund Local Infrastructure Needs***

27 Maryland's charter counties have ample authority to impose any type of new tax or fee as long as
28 that tax or fee is not preempted by state law. On the other hand, under the Maryland
29 Constitution, a code county or a municipality must have express authority from the General
30 Assembly to impose a tax or fee. For example, if a code county wanted to impose a transfer tax
31 to fund infrastructure, the county would have to rely on the General Assembly to pass legislation
32 authorizing the imposition of a transfer tax. As a result, many code counties and the
33 municipalities have been unsuccessful in persuading the General Assembly to authorize a new
34 tax or fee.

35 In the area of financing, all counties and municipalities have the authority to adopt ordinances for
36 tax increment financing for public infrastructure.

1 All counties have authority to establish special tax districts for more limited purposes such as
2 providing drainage improvements or providing street lighting. In addition, charter counties have
3 broad authority under the Express Powers Act to create special taxing districts to carry out most
4 county services. However, authority to create special taxing district and to levy ad valorem taxes
5 and issue bonds and other obligations for the purpose of financing infrastructure improvements
6 is only authorized in eleven counties (Anne Arundel, Baltimore City, Calvert, Charles, Garrett,
7 Harford, Howard, Prince George's, St. Mary's, Washington, and Wicomico). The type of
8 infrastructure improvement authorized in special taxing districts include storm drainage systems,
9 water and sewer systems, roads, lighting, parking, parks and recreational facilities, libraries,
10 schools, transit facilities and solid waste facilities. Municipal corporations have the authority to
11 create special taxing districts and to levy ad valorem taxes.

12 **Particularly in view of the enormous demand for infrastructure and the practical**
13 **limitations of the current financial climate, the State should provide counties and**
14 **municipalities with the broadest possible authority for funding local infrastructure**
15 **projects, including authority to use any reasonable tax, revenue source or financing vehicle.**
16 **While the decision to use a particular tax or funding vehicle should always rest with local**
17 **government, the State should continue to encourage local funding decisions that prioritize**
18 **infrastructure projects within PFAs.**

19 ***E. Improve the Effectiveness of Adequate Public Facilities Ordinances***

20 In Maryland and elsewhere, essential public facilities such as schools, roads, water, and sewer
21 are necessary to ensure that communities are sustainable and, efficient communities. Often,
22 paying for public facilities is not made a priority until current population demands attention be
23 paid. The State authorizes local jurisdictions to enact Adequate Public Facilities Ordinances
24 (APFOs), which condition development approvals under zoning and subdivision ordinances to
25 meeting standards for public facilities such as roads, schools, water supply, sewage treatment,
26 emergency services, libraries, ballfields and parks. Development cannot proceed until these
27 standards are met.

28 The Task Force's APFO Workgroup was charged with assessing the impact of APFOs on growth
29 patterns. See the Workgroup's report at [Appendix \[\]](#).

30 **After consideration of the APFO Workgroup report, the Task Force makes the following**
31 **recommendations:**

32 **1. The State's planning laws (Article 66B) should be amended to:**
33

- 34 **a) Require a local government that has an Adequate Public Facilities Ordinance**
35 **(APFO) to annually report to MDP by July 1 if the APFO results in an APFO**
36 **restriction, moratorium, or capacity problem within a PFA. That report shall**

- 1 include the location of the restriction, type of infrastructure involved, and the
2 estimated time for the resolution of the restriction.
- 3
- 4 b) Require MDP to prepare and publish a report every two years identifying
5 geographic areas and facilities within PFAs that do not meet local APFO
6 standards, and any improvements to those facilities that have been scheduled
7 and/or proposed in the jurisdiction's Capital Improvement Program (CIP).
8
- 9 2. Jurisdictions should consider waiving APFO restrictions for workforce housing,
10 affordable housing, and infill and revitalization projects within the PFA. Some
11 jurisdictions already have waivers for these types of development. The final
12 determination of waiver should be left to the local government, however.
13
- 14 3. The State of Maryland should identify new funding sources to be used for
15 infrastructure improvements within PFAs. State funding decisions should give high
16 priority to infrastructure projects that remove reasonable APFO restrictions,
17 moratoria, or other capacity problems that stop or limit development within PFAs
18 or reimburse local governments for forward funding of these projects.
19
- 20 4. The State should consider new sources of revenue to pay for State-funded
21 infrastructure. The Task Force recommends consideration be given to the
22 following: an increase in the gas tax, indexing the gas tax to inflation, and a tax on
23 vehicle miles travelled (VMT). Should any of these be adopted, it is imperative that
24 the proceeds be dedicated exclusively to infrastructure. (The Task Force
25 acknowledges that the Maryland Association of Counties, represented on the Task
26 Force, does not endorse a VMT tax.)
27
- 28 6. Article 66B §11.01 should be amended to authorize local governments to establish a
29 transfer of development rights program to facilitate the purchase of land for a
30 school or other public facility within a PFA. Under this approach, the pre-existing
31 development rights associated with property selected to become a school or other
32 public facility could be sold to a third party, who would use those development
33 rights to obtain increased density on land elsewhere within the community served by
34 the school or public facility. Proceeds of the sale of development rights would be
35 used to help purchase the public site and/or construct the facility. (Article 66B
36 §11.01 currently provides that "a local legislative body that exercises authority
37 granted by this article may establish a program for the transfer of development
38 rights to: (1) Encourage the preservation of natural resources; and (2) Facilitate
39 orderly growth and development in the State.")

- 1 **7. Voluntary communication and cooperation among the counties, municipalities, and**
2 **their local boards of education should be encouraged, especially with respect to**
3 **growth and capacity issues. A county and local board of education should meet at**
4 **least twice a year to discuss how the county and board will handle growth issues**
5 **related to school capacity, student growth projections, and where possible, the siting**
6 **of school facilities in a manner consistent with sound land use and public facilities**
7 **planning.**
- 8 **8. The State should work to increase the quality and quantity of demographic**
9 **information available to school boards to better project trends in student**
10 **population. Officials should use student generation rates based on actual experience**
11 **and consider geographical differences. Officials at all levels should cooperate on**
12 **strategies to increase enrollment at schools that are under capacity.**
- 13
- 14 **9. MDP should prepare a study on the practicality of building vertical "urban"**
15 **schools in the more densely built areas of PFAs. The study should also consider the**
16 **practicality of making schools part of a mixed use or transit oriented development**
17 **project and co-location of public facilities.**
- 18
- 19 **10. The State should examine the adoption of a 6-year CIP for school construction,**
20 **instead of the current 1-year, to give localities more predictability in funding.**
- 21

22 **8. Address Maryland's Housing Challenges**

23 **A. Increase resources and activities to support affordable/workforce housing**

24 As home prices have increased substantially over the last years accompanied by rising
25 construction costs, the resources available to support affordable housing activities at the state and
26 local levels have become stretched. Recent changes in the financial markets have lowered the
27 value of some important existing tools, such as Low Income Housing Tax Credits (LIHTC).
28 Expanded federal, state, and local actions through budgetary commitments as well as regulatory
29 actions are needed.

30 **The Task Force recommends that the State:**

- 31 • **develop new funding sources to support Department of Housing and**
32 **Community Development and Local Government affordable and workforce**
33 **housing activities**
- 34 • **work with Federal representatives to grow Federal formula-based housing**
35 **and community development funds such as HOME, Community**
36 **Development Block Grant (CDBG), Low Income Housing Tax Credits,**

Mortgage Revenue Bonds, Housing Choice Vouchers, and Public Housing funds. [DHCD TO CLARIFY - Ensure disbursement of resources allocated to the National Affordable Housing Trust]

- encourage local governments to adopt local affordable housing strategies including housing trust funds, inclusionary zoning (where economically viable), land trusts, payments in lieu of taxes and waivers for local impact and development fees for affordable housing.

B. Expand housing information and policies in local comprehensive plans

The location, shape, and quality of growth, transportation commuting patterns, as well as social needs and services in communities, are influenced by the availability of housing. The failure to adequately plan for housing adequate to support employment located in a jurisdiction also results in relocation of households to other jurisdictions and even other states. In fact, according to the 2000 Census, Maryland has the 2nd worst commute in the country. These patterns often drive growth and development to areas with cheaper land costs, which promotes sprawl. Yet, the average cost of housing inside PFAs is generally less than outside the PFAs. Addressing housing affordability would play a significant role in smarter growth management and is critical to achieving more sustainable communities

The Task Force recommends that Maryland communities better incorporate housing affordability into planning activities to help guide land use, zoning, and other development-related decisions. Consideration should be given to including in local comprehensive plans housing market information, a discussion of available affordable housing, local development capacity, an analysis of housing availability in the context of employment, as well as goals and strategies to address these and related issues.

C. Evaluate the benefits of creating community land trusts

Community land trusts have the potential to create and support affordable and workforce housing. The use of Community Development Block Grants (CDBG) monies may be appropriate to facilitate community land trusts. [MACo TO PROVIDE MORE INFORMATION.]

9. Stimulate Revitalization of Existing Communities

A. Direct growth to targeted areas such as greyfields/brownfields, areas near transit stations, and other designated areas such as BRAC Zones, Enterprise Zones and Community Legacy Areas through reinvestment and/or tax credits

Throughout Maryland, many areas are ripe for revitalization and redevelopment. Directing growth to these areas is critical to combat sprawl and encourage Smart Growth. However, revitalization and infill projects are often more costly than new construction due to land

1 assemblage costs, existing or previous uses (including environmental matters), and other site
2 constraints. Existing tools and incentives such as federal and State brownfields programs,
3 historic tax credits and the Community Legacy Program play critical roles in stimulating growth
4 in targeted areas, and the State has some new programs such as BRAC Zones which are designed
5 to link BRAC growth to communities seeking revitalization. The protection of these programs is
6 critical in today's budget environment while a broader commitment of resources is fundamental
7 in moving forward.

8 **As a Focus Area for the next phase of the Task Force's work, the Task Force will review,**
9 **categorize, and assess the State's existing revitalization incentives. The Task Force will**
10 **also review best practices and ideas from competing jurisdictions and around the country**
11 **and recommend additional incentives which are cost-effective and economically efficient,**
12 **yielding an acceptable return on the State's investment. A supplemental report should be**
13 **produced by July 1, 2009.**

14 **B. Find creative solutions to incentivize and encourage small business growth in existing**
15 **communities**

16 Many urban markets in Maryland, in particular, remain underserved by grocery, retail and other
17 businesses found in more suburban and affluent areas of the state. Overall reinvestment and
18 revitalization activities need to be accompanied by targeted programs and activities that can
19 expand and sustain the growth of amenities, services, and businesses to attract new investment in
20 such communities.

21 **As part of its work under recommendation 9(A) above, the Task Force will focus on**
22 **revitalization incentives directed at supporting the location of small businesses in**
23 **revitalization areas.**

24 **C. Reauthorize the Maryland Historic Tax Credit and Remove Aggregate Caps**

25 One of the most powerful tools for revitalization of existing communities throughout the state
26 has been the Maryland Heritage Structure Rehabilitation Tax Credit Program. By focusing only
27 on historic structures, the program directs resources to existing communities where viable
28 structures await rehabilitation and expensive infrastructure is already in place.

29 From 1996 to 2003, the Maryland Heritage Structure Rehabilitation Tax Credit was widely
30 regarded as the most effective program of its type in the nation. During that period, respected
31 economic development and planning experts described the program as Maryland's most
32 powerful and effective Smart Growth, economic development and community revitalization tool.
33 The rehabilitation made possible by the tax credits has proven advantages over new construction
34 in its return on investment, increased tax revenues, job creation, energy and natural resource
35 conservation. Ironically, this very success and demand for the credits led to changes in the
36 program including adding competitive rankings, overall program caps, and caps on the amount

of credits that could be used in any one jurisdiction. As a result, the program's effectiveness has been reduced -- in 2003, the year before these substantial limitations were imposed, 147 applications were received; in 2004, only 61 were received.

Unfortunately, some of Maryland's most capable and successful historic rehabilitation developers have turned their attention to states where the state credits can be predictably obtained and easily combined with federal historic preservation credits. For example, Virginia, North Carolina, Missouri, New York, and Rhode Island do not "cap" their credit programs.

In addition to continuing problems resulting from the program's restructuring, an even more fundamental issue is the looming January 1, 2010 sunset date for the entire credit program.

The Task Force strongly recommends that the Maryland Heritage Structure Rehabilitation Tax Credit Program program be reauthorized and extended by the General Assembly in the 2009 Session, and that aggregate caps and other limiting factors also be removed, allowing the program to continue providing an extraordinary return on investment for the State.

10. Ensure Adequate Water and Sewer for Smart Growth

Water is a precious and finite resource, which must be managed to assure that future human needs can be met with sustained supplies while also maintaining healthy aquatic ecosystems. Maryland is committed to the restoration and preservation of the Chesapeake Bay, the Coastal Bays, and all its streams and rivers. It is also committed to protecting public health by assuring adequate supplies of safe drinking water.

Sprawling patterns of development can increase the amount of pollution entering our waters and threaten drinking water supplies. The conversion of forests, pastures and other rural uses to residential development not only destroys environmentally beneficial uses, but can also degrade water quality and impair streams by increasing the amount of impervious surfaces, which results in more runoff and associated pollution entering streams. Conventional septic systems do not remove nitrogen, which passes through the ground into the ground water and eventually becomes part of the water flowing in streams. Impervious surface from development encroaches on areas where precipitation percolates into the ground, reducing recharge of underground drinking water sources. Development on land that drains to surface drinking water sources also poses a risk. Sprawl development also results in more vehicle miles traveled, which increases nitrogen emissions to the atmosphere and the amount of nitrogen deposited onto the land and water from the atmosphere. Atmospheric sources of nitrogen are estimated to contribute approximately 30% of the nitrogen pollution loading to the State's waters.

To protect the environment, compact development is preferable to sprawling development. However, providing adequate drinking water and capacity for wastewater disposal for densely populated areas poses challenges in some areas of the State.

The Task Force recommends the following actions to manage water and sewer for Smart Growth.

A. Fund Hydrologic Studies and an Expanded Monitoring Network

The Maryland Department of the Environment (MDE), which issues permits to appropriate water, must avoid allocating more water than can be sustainably taken. As demand for water increases, the limits of the resource will be approached. MDE must have accurate, comprehensive data to support management and permit decisions. The Advisory Committee on the Management and Protection of the State's Water Resources, chaired by Dr. M. Gordon Wolman, recommended that two ground water studies be completed and the network of monitoring wells and stream gauges be expanded. *Water for Maryland's Future: What We Must Do Today (2008)*. Together, these will provide the comprehensive statewide data and scientific tools needed to allow the maximum allocation of water in a sustainable fashion, without causing ecological damage. This issue affects towns and counties across the State that need more water, from the rocky regions of Western Maryland to the coastal plain of the Eastern Shore.

The Task Force recommends that the State secure full funding for the hydrologic studies and expanded monitoring network.

B. Develop and Implement Nutrient Trading for Non-point sources

Cleaning up the Bay will require that Maryland reduce the amount of nitrogen and phosphorus entering the Bay by millions of pounds a year. A principal strategy for accomplishing this is the imposition of "nutrient caps" on wastewater treatment plants, which contribute about 20% of the nitrogen entering the Bay. Once a treatment plant hits its cap, it cannot expand unless it finds a way to improve its treatment or offset the excess discharge. Some wastewater treatment plants that serve Smart Growth areas will need to expand to accommodate increased population.

MDE issued its *Policy for Nutrient Cap Management and Trading in Maryland's Chesapeake Bay Watershed* in April 2008. As Phase I of a two-part Trading Policy, it establishes an approach for trading between point sources and trading involving the removal of onsite sewage disposal systems (OSDS). A second phase of the Trading Policy, being developed by the Maryland Department of Agriculture with other State agencies, will allow trading between point sources and non-point sources.

The Task Force urges that Phase II of the Trading Policy be completed and implemented as soon as possible.

1 **C. Level the Playing Field by Requiring Onsite Sewage Disposal Systems, Like Onsite**
2 **Wastewater Treatment Plants, To Reduce their Nitrogen Discharges**

3 Onsite sewage disposal systems (OSDS) are commonly used in large-lot, sprawl development.
4 A conventional OSDS (septic tank) discharges about 30 pounds of nitrogen every year. Some of
5 this nitrogen is taken up by plants or otherwise removed during its passage through the ground
6 and ground water, but 30% to 80% of it can reach surface water. Best Available Technology
7 (BAT) can remove a considerable amount of the nitrogen from the wastewater before it enters
8 the environment. Currently, those installing septic systems or subdividing land to be served by
9 septic systems are not required to install BAT or to offset their new discharges. In contrast,
10 discharges of nutrients from wastewater treatment plants are limited, and new plants must offset
11 their discharges. This disparity between the non-regulation of septic systems and the regulation
12 of wastewater treatment plants undermines the State's other efforts to foster Smart Growth. Not
13 only is development using septic systems more polluting than the same development would be
14 within a sewerage service area, development costs associated with installation of a traditional
15 septic system are much less than sewer connection fees and have no continuing sewer service
16 fee. In addition, allowing septic systems to discharge excessive amounts of nitrogen runs
17 counter to the strategies for cleaning up the Bay.

18 **The Task Force recommends that this disparity be corrected.**

19 One way to accomplish this would be to modify State law and/or regulations to require that each
20 new OSDS utilize BAT and offset the remaining nitrogen load, and that each replacement of a
21 failed or failing OSDS utilize BAT, but not be required to offset the remaining load.
22 Alternatively, or in addition, offsets could be used in place of BAT. As an incentive for
23 upgrading existing systems that are functioning as designed and do not have to be replaced, such
24 upgrades could be allowed to generate credits for trading. Correcting the disparity will improve
25 water quality and level the Smart Growth playing field by requiring owners of onsite systems to
26 pay a portion of the costs related to their use of the State's groundwater for sewage disposal.

27 **D. MDE Should Convene a Stakeholder Group to Discuss Ways to Give Priority in Allocations**
28 **of Ground Water to Municipalities that Need Additional Water to Support the Desired**
29 **Densities**

30 A new law, HB 1423 (2008), allows MDE, when appropriating ground water, to give priority to
31 public water systems that serve certain municipalities in Carroll, Frederick, or Washington
32 Counties, provided it does not jeopardize the State's natural resources. MDE is authorized to
33 adopt regulations to implement this practice.

34 **The Task Force recommends that MDE convene a stakeholder group to discuss the**
35 **adoption of regulations. Aspects of State water law, if any, that hamper implementation of**
36 **this practice and options for eliminating barriers to implementation of new regulations**
37 **should be identified.**

1 **E. MDE Should Convene Stakeholder Groups to Discuss Ways to Reuse Water**

2 Water reuse offers an opportunity to reduce the demand for drinking water and can also reduce
3 the amount of pollution entering the environment.

4 **The Task Force recommends that MDE carefully review existing standards and the**
5 **programs of other states to develop policies and regulations that maximize opportunity for**
6 **water reuse without compromising public health. In addition, MDE should explore the use**
7 **of State funds to help jurisdictions acquire rights for land application of treated**
8 **wastewater.**

9 **11. Incorporate Climate Change into Growth Planning**

10 There is scientific consensus that climate change and global warming are occurring, and the
11 impacts of climate change and sea level rise will have far reaching implications for coastal areas
12 in Maryland. Due to its geography and geology, the Chesapeake Bay region is ranked the third
13 most vulnerable to sea level rise, behind Louisiana and Southern Florida. In addition to causing
14 coastal inundation, climate change is likely to increase the risk of storm damage throughout
15 Maryland. Maryland has joined the Regional Greenhouse Gas Initiative (RGGI), a cooperative
16 effort by ten northeastern and Mid-Atlantic states to reduce carbon dioxide emissions from
17 electricity generating plants. Maryland is also taking other aggressive action to reduce its carbon
18 footprint, but some of the effects of climate change will occur even if the level of greenhouse
19 gases is stabilized. In this century, the government will face difficult decisions regarding public
20 sector infrastructure (i.e., roads, bridges, airports, wastewater treatment facilities, and municipal
21 water systems) located in threatened areas.

22 **A. Add Climate Change Considerations to Integrated Land Use Planning**

23 State agencies and local governments will increasingly be called upon to take action to protect
24 human habitat and infrastructure from future risks. The State can accomplish this by taking steps
25 to effectively reduce the impact to existing-built environments by requiring that public and
26 private structures be elevated and designed to minimize the risk of flood and storm damage, and
27 to avoid future impact by directing new growth and development away from areas vulnerable to
28 increased flooding.

29 **The Task Force recommends that, in coordination with State agencies and the State's**
30 **Climate Change Commission, climate change considerations should be integrated into**
31 **building and trade codes, and comprehensive plans.**

32 **B. Develop and Disseminate Information and Planning Tools regarding the Impacts of Sea**
33 **Level Rise and Storm Damage**

1 All levels of government will want to avoid the adverse impact of sea level rise and storm
2 damage, and to minimize the damage that cannot be avoided. Decisions about whether to
3 upgrade vulnerable existing infrastructure and where to locate new infrastructure should be based
4 on the best available information.

5
6 **The Task Force recommends that the State develop and disseminate information and
7 provide tools that planners could use to determine where infrastructure is or would be at
8 risk and the economics of protecting, moving, or replacing it.**

9
10 **C. Develop Guidance and a Protocol for Evaluating the Greenhouse Gas Impact of Major**
11 **Capital Projects**

12
13 [ADDITIONAL BACKGROUND TO BE INSERTED]
14

15 **The State should develop, for its agencies and local jurisdictions sponsoring large capital
16 projects, guidance to use in evaluating the greenhouse gas impact of major capital projects.
17 Once the guidance is issued, State and local major capital projects, such as major road
18 construction or modifications and public school construction projects, should be evaluated
19 for the resulting transportation and land use greenhouse gas emissions. The analysis
20 should include a build / no build analysis and an examination of alternatives with lower
21 greenhouse gas emissions.**
22

23 **12. Promote Preparation and Adoption of State Development Plan,**
24 **State Housing Plan, and State Transportation Plan**

25 The Task Force is charged with determining the parameters for a State Development Plan, a
26 State Housing Plan, and a State Transportation Plan, and with determining how these plans work
27 together with local land use plans. MDP, DHCD, and MDOT have presented the Task Force
28 with proposed parameters for the respective plans, which have been adopted preliminarily by the
29 Task Force. The Departments and the Task Force agree that the State Housing Plan and State
30 Transportation Plan, should ultimately be elements under the larger umbrella of the State
31 Development Plan. Those parameters, which will guide the development of the Plans
32 themselves, are contained in **Appendices [_____]**.

33 As noted, the Task Force's charge was to develop parameters for the Plans, not the Plans
34 themselves. Actual Plan development will be a considerable and time-consuming undertaking
35 by the lead State agency, and will require the input and involvement of many stakeholders,
36 including other agencies of state government, local governments, interest groups, and the public
37 at large.

38 **The Task Force will continue to work with MDP, DHCD, and MDOT on refining the**
39 **parameters of their respective Plans and will provide guidance, feedback, and support as**

1 the Plans are fully developed. This critical component of Maryland land use planning will
2 be a Focus Area for the balance of the Task Force's existence.

3 **13. Identify Inconsistent and/or Conflicting Laws, Regulations, and** 4 **Policies**

5 As in any complex governmental environment, where different entities regulate different aspects
6 of the same conditions, opportunities for conflicting or inconsistent rules, regulations, and
7 policies exist. At the very least, these can lead to inefficiencies while divergent policies are
8 recognized and reconciled. The Task Force has asked local governments to identify, from their
9 perspective, any such conflicts or inconsistencies in relevant State law, regulation or policy
10 which might be resolved through discussion with the State and its agencies. A number of these
11 have been identified by local government representatives on the Task Force and their respective
12 organizations, and they are being reviewed by the State agencies involved. The validity and
13 seriousness of these issues has not yet been determined or agreed upon, and time constraints have
14 not permitted a full discussion and analysis prior to issuance of this report.

15 **The Task Force recommends that a workgroup, including state and local representatives**
16 **and other stakeholders as appropriate, be convened to evaluate potential internal conflicts**
17 **and/or inefficiencies in State land use law, regulations, and policy, including but not limited**
18 **to those identified to date. The workgroup should report its findings to the Task Force for**
19 **further discussion, evaluation and action, if necessary, by July 1, 2009.**

20 **14. Promote Smart Growth Education and Outreach**

21 Many efforts have been made in the past to teach Maryland's citizens about Smart Growth,
22 including the Maryland Department of Planning's 2007 "A Shore for Tomorrow" and "This is
23 Smart Growth"; there are also 28 Models and Guidelines available from the Maryland
24 Department of Planning which detail many different aspects of Smart Growth. However, the
25 Task Force believes that there should be a renewed effort and more focus on education, both
26 about the issues themselves and about Maryland's leadership role in Smart Growth nationwide.

27 **A. Create a broad-based approach outreach about Smart Growth and growth/development** 28 **issues, developed collaboratively between State and local government** 29

30 Many agencies within State Government individually have tools and programs that can promote
31 Smart Growth development. A broad-based approach to outreach will need to include cross-
32 agency integration of an overall education effort.

33
34 **State and local governments should work together to ensure that relevant plans and**
35 **programs are included in order to best address that localities educational needs.**
36

1 **B. Encourage the reinvigoration of the Maryland Planning Commissioners Association and**
2 **link to the Maryland American Planning Association**

3
4 2008 marks the 25th anniversary of the MPCA. After a hiatus MPCA is now meeting and
5 planning its work program. This group should have the best access to Smart Growth tools and be
6 kept up-to-date on growth and development issues in order to be able to effectively work with
7 their local Planning Commissions to promote Smart Growth.

8 **The Task Force supports the reinvigoration of the MPCA as a valuable asset to Maryland's**
9 **Smart Growth agenda.**

10 **C. Form a Task Force workgroup to create a Smart Growth curriculum**
11

12 Practical time constraints prevented the Task Force from engaging in any detailed discussion
13 about a Smart Growth education program might contain or how it might be utilized, though the
14 Task Force did establish the desirability of such a curriculum.

15 **As a Focus Area after delivery of this initial report, the Task Force will create an**
16 **Education Workgroup to review existing Smart Growth educational materials as well as**
17 **past efforts. The Workgroup, including Task Force members, state and local agency**
18 **representatives, and educators to be recruited, will help design a Smart Growth curriculum**
19 **to educate the public about the growth and development challenges we face together as a**
20 **State.**

21 **15. Re-Establish a Broad-Based Statewide Planning Commission**

22 To its credit, Maryland had the first state planning commission in the nation, constituted in 1933.
23 Yet, that commission's successor, the State Economic Growth, Resource Protection, & Planning
24 Commission, was dissolved by statute in 2003 leaving the State without an enduring, broad-
25 based public body charged with an ongoing role in the State's growth and development policy.
26 Even in its short existence, the Task Force has proven the value of having such a body. In
27 addition to making the recommendations contained in this initial report, the Task Force has also
28 served as an official forum in which diverse interests have convened to discuss critical growth,
29 development, and land use issues. The Task Force's enabling legislation will expire in
30 December 2010, however, and the State would again be left without a state-sanctioned venue for
31 discussion and resolution of these issues.

32 **The Task Force recommends that the State reconstitute a broad-based statewide planning**
33 **board or commission including state and local officials, interest groups, private citizens,**
34 **and others. Among other tasks, this group should oversee the further development and**
35 **implementation of the State Development Plan and make recommendations on the**
36 **development and alignment of resources that affect growth and development in Maryland.**
37 **Importantly, the group will serve as an officially-recognized forum for discussion of growth**

1 and development issues by a diverse group of stakeholders. The entity should be created
2 by statute prior to the expiration of the Task Force in December 2010.

3

4 --end--